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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,905

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Kohei Yamaguchi

2005-2010A

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04/29/2008

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EXAMINER

HANCE, ROBERT J

ART UNIT

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4134

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,905	Applicant(s) YAMAGUCHI ET AL.	
	Examiner ROBERT HANCE	Art Unit 4134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/25/2006; 04/25/2006; 03/05/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract has two paragraphs. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of

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technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 16 defines a program embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). That is, the scope of the presently claimed program range from paper on which the program is written, to a program simply contemplated and memorized by a person.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 9, 12 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwoh et al., US Patent No 6,115,057.

As to claim 1 Kwoh et al. disclose a broadcast receiving terminal which receives a broadcast wave and displays broadcast contents (Fig. 1: 43, 45), wherein the broadcast wave includes stream information indicating broadcast contents, and outline information indicating an outline of the broadcast contents (Fig. 23: 666, 667; col. 11 lines 13-21; col. 15 line 53 – col. 16 line 6), and said broadcast receiving terminal comprises: a receiving unit operable to receive the broadcast wave (Fig. 1: 43); a display unit operable to display the broadcast contents (Fig. 1: 45); a judging unit operable to judge, based on a user's operation, whether or not the broadcast contents should be displayed (Fig. 1: 40; col. 11 lines 59-64); a display control unit operable to perform image processing on the stream information of the broadcast wave received by said receiving unit, and to cause said display unit to display the broadcast contents, when said judging unit judges that the broadcast contents should be displayed (Fig. 1; col. 10 lines 58-66); and an outline presentation unit operable to present the outline, so that the outline synchronizes with the broadcast contents, which is indicated by the outline information transmitted by the broadcast wave received by said receiving unit, when said judging unit judges that the broadcast contents should not be displayed (col. 1 line 60 – col. 2 line 5; Figs. 32a-32d).

As to claim 2 Kwoh et al. disclose the broadcast receiving terminal according to claim 1, wherein said broadcast receiving terminal further comprises a function processing unit operable to activate and terminate a predetermined function based on a

user's operation (Figs. 7-11), and said judging unit is operable to judge that the broadcast contents should not be displayed, when the predetermined function is activated, and to judge that the broadcast contents should be displayed, when the predetermined function is terminated (Fig. 11; col. 15 line 53 – col. 16 line 29; user is given the option to enable and disable the blocking function).

As to claim 3 Kwoh et al. disclose the broadcast receiving terminal according to claim 2, wherein said outline presentation unit is operable to cause said display unit to display the outline as a character string (Figs. 32a-32d).

As to claim 4 Kwoh et al. disclose the broadcast receiving terminal according to claim 3, wherein said display unit has a first display area, and a second display area smaller than the first display area, said display control unit is operable to display the broadcast contents in the first display area, and said outline presentation unit is operable to display the outline in the second display area (Figs. 32a-32d – first display area is the entire television screen, and second display area, smaller than the first display area, is the area in which the text is displayed).

As to claim 5 Kwoh et al. disclose the broadcast receiving terminal according to claim 2, wherein said outline presentation unit is operable to notify the user of the outline indicated by the outline information with a voice (col. 16 lines 30-34).

As to claim 9 Kwoh et al. disclose the broadcast receiving terminal according to claim 1, further comprising a reception unit operable to receive an instruction to display/not display the broadcast contents, based on the user's operation (Fig. 1: 32; 40; Fig. 11; col. 15 line 53 – col. 16 line 29; user is given the option to enable and disable

the blocking function), wherein said judging unit is operable to judge that the broadcast contents should be displayed, when an instruction to display is received by said reception unit, and operable to judge that the broadcast contents should not be displayed, when an instruction not to display is received by said reception unit (col. 3 line 53 – col. 4 line 24: parental control circuitry is controlled by user input; col. 11 lines 59-64).

As to claim 12 Kwoh et al. disclose a broadcast apparatus which transmits a broadcast wave (Fig. 20), said broadcast apparatus comprising: an outline information generating unit operable to generate an outline information indicating an outline of broadcast contents of the broadcast wave (col. 14 line 66 – col. 15 line 21); and a transmission unit operable to transmit the outline information on the broadcast wave so that the outline indicated by the outline information is synchronized with the broadcast contents (Fig. 30; Fig. 23-24, 27-28 – outline information is inserted into the VBI along with broadcast contents at the times according to when it is to be displayed, therefore the two are synchronized).

As to claims 15 and 16 see similar rejection to claim 1. The method of claim 15 and the program of claim 16 correspond to the terminal of claim 1. Therefore claims 15 and 16 have been analyzed and rejected.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al., US Patent No 6,115,057 in view of Tsukagoshi, US Patent No 5,684,542.

As to claims 6 and 13 Kwoh et al. fail to disclose that the outline information includes time information indicating the time when the outline should be presented, and said outline presentation unit is operable to present the outline when the present time matches the time indicated by the time information.

However, in an analogous art, Tsukagoshi discloses including time information with text information which is to be displayed along with broadcast content (col. 11 line 65 - col. 12 line 16). Kwoh et al. teach embedding the text in the VBI, therefore including this time information is unnecessary. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kwoh et al. with the teachings of Tsukagoshi. The rationale for this combination would have been to synchronize text and broadcast data when the broadcast is digital, and thus embedding the text in the VBI is not possible. In this situation, including time information with the text would be necessary for the system of Kwoh et al. to work. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al., US Patent No 6,115,057 in view of Palmer, US Patent No 5,195,135.

As to claim 7 Kwoh et al. fails to disclose the broadcast receiving terminal according to claim 2, wherein said outline presentation unit is further operable to perform image processing on the stream information of the broadcast wave received by said receiving unit, and to cause said display unit to display a moving picture with a lower image quality than the broadcast contents displayed by said display control unit, when said judging unit judges that broadcast contents should not be displayed.

However, in an analogous art, Palmer discloses censoring a video image by displaying the image with a lower image quality when it is decided that censorship is desired (col. 3 lines 3-41). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kwoh et al. with the teachings of Palmer. The motivation for this combination would have been to create a more visually pleasing censoring technique (see Palmer Abstract). All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

8. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al., US Patent No 6,115,057 in view of Nakasone, Japan Pub No 2003-078840.

As to claims 8 and 14 Kwoh et al. fail to disclose that the broadcast wave includes limit information which limits judgment of said judging unit, and said judging unit is operable to maintain the results of judgments already made, regardless of a user's operation, when the limit information is received by said receiving unit.

However, in an analogous art, Nakasone discloses including limit information in a broadcast wave (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kwoh et al. with the teachings of Nakasone. The motivation for this combination would have been to remotely control the display in order to give the broadcaster control over how a program is displayed. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

9. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al., US Patent No 6,115,057 in view of Lee et al., US Pub No 2001/0049296.

As to claim 10 Kwoh et al. fail to disclose the broadcast receiving terminal according to claim 1, wherein said broadcast receiving terminal is configured in first and second forms, which can be switched between in accordance with a user's operation; and said judging unit is operable to judge that the broadcast contents should be displayed, when said broadcast receiving terminal is in the first form, and to judge that the broadcast contents should not be displayed, when said broadcast receiving terminal is in the second form.

However, in an analogous art, Lee et al. disclose a receiving terminal that is configured in two forms, where the information displayed on the terminal changes when the user changes the form of the terminal (Abstract, Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kwoh et al. with the teachings of Lee et al. to display the text summary of the broadcast when the terminal is in a first form, and to display the full video of the broadcast when the terminal is in a second form. The rationale for this combination would have been to allow a user to follow a broadcast program regardless of whether the terminal is in an open or closed state. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As to claim 11 Kwoh et al. fail to disclose the broadcast receiving terminal according to claim 10, wherein said display unit includes a first display unit, which appears on the surface when said broadcast receiving terminal is in the first form, and a second display unit, which appears on the surface when said broadcast receiving terminal is in the second form, said display control unit is operable to cause said first display unit to display the broadcast contents, and said outline presentation unit is operable to cause said second display unit to display the outline.

However, in an analogous art, Lee et al. disclose a device which has a first display unit which appears on the surface when the device is in a first form and a second display unit which appears on the surface when the device is in a second form

(Fig. 3C: 30a and 30b), and the information displayed on the display devices depends on the form of the device (Fig. 6; Abstract).

However, in an analogous art, Lee et al. disclose a receiving terminal that is configured in two forms, where the information displayed on the terminal changes when the user changes the form of the terminal (Abstract, Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kwoh et al. with the teachings of Lee et al. to display the text summary of the broadcast when the terminal is in a first form, and to display the full video of the broadcast when the terminal is in a second form. The rationale for this combination would have been to allow a user to follow a broadcast program regardless of whether the terminal is in an open or closed state. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00am - 5:00am EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LunYi Lao can be reached on (571) 272-7671. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./
Examiner, Art Unit 4134

/LUN-YI LAO/
Supervisory Patent Examiner, Art Unit 4134